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ATTORNEYS FOR PLAINTIFFS
File No.:

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SUMMER MOORE, a minor, by and through her Guardian ad Litem, GABRIELLE MOORE Individually, Plaintiffs, v. UNITED STATES OF AMERICA; JOHN DOE MEDICAL DIRECTORS A-Z (multiple fictitious persons): JOHN DOE EMPLOYERS A-Z (multiple fictitious entities); JOHN/JANE DOE OBSTETRICAL CARE PROVIDERS A-Z (multiple fictitious persons and/or entities)	CIVIL ACTION NO: COMPLAINT

PARTIES

1. Plaintiff, Summer Moore, a minor by her g/a/l, Gabrielle Moore residing at 427 W Quince Street, Vineland, Cumberland County, New Jersey.

2. Plaintiff, Gabrielle Moore, is the natural mother of Summer Moore residing at 427 Quince Street, Vineland, Cumberland County, New Jersey.

3. Defendant, United States of America (hereinafter "USA") is the duly constituted and sovereign government of the United States of America.

4. Upon information and belief, the defendants, John Doe Medical Directors A-Z (multiple fictitious persons); John Doe Employers A-Z (multiple fictitious entities) and John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities),

are citizens of the state of New Jersey or are corporations incorporated under the laws of New Jersey having a principal place of residence and/or business in the State of New Jersey.

FACTUAL BACKGROUND

5. In November of 2010, plaintiff Gabrielle Moore (hereinafter “plaintiff Ms. Moore”) was treating with CompleteCare Health Network a/k/a CompleteCare Obstetrics a/k/a Vineland Women’s Health Center (hereinafter “CompleteCare”) for a pregnancy.

6. Upon information and belief CompleteCare is an entity organized and existing under the laws of the State of New Jersey and the USA, which at all times relevant hereto, owned, operated, controlled and maintained health care centers located at 494 South Brewster Avenue & 1038 East Chestnut Avenue in Vineland, Cumberland County, New Jersey.

7. Upon information and belief, defendant, USA has designated CompleteCare a Federally Qualified Health Center, and as such, it is afforded medical malpractice coverage under the Federal Tort Claims Act, U.S.C. sec 1346(b), 2401(b) and 2671 et.seq. (also referred to as the Act).

8. Upon information and belief at all relevant times Francis Doria, NP (hereinafter “Nurse Doria”) was a nurse practitioner licensed to practice medicine in the State of New Jersey and employed by CompleteCare.

9. In November, 2010, Nurse Doria rendered care and treatment to plaintiff, Ms. Moore with respect to her pregnancy.

10. Upon information and belief at all relevant times Roberta Milligan, CNM (hereinafter “Nurse Milligan”) was a certified nurse midwife in the state of New Jersey and employed by CompleteCare.

11. In December, 2010, Nurse Milligan rendered care and treatment to plaintiff, Ms. Moore, with respect to her pregnancy.

12. The pregnancy resulted in the birth of plaintiff, Summer Moore on 5/17/11.

13. Plaintiff, Summer Moore, was born with Down Syndrome, a permanent genetic disorder associated with multiple defects including but not limited to mental retardation.

JURISDICTION AND VENUE

14. Upon information and belief CompleteCare and its employees, Nurse Doria and Nurse Milligan have been deemed to be federal employees acting within the scope of their employment at the time of the alleged events.

15. The United States District Court for the District of New Jersey has subject matter jurisdiction over this matter pursuant to 28 U.S.C. sec. 1346(b), in that this is a civil action on a claim against the United States for money damages for personal injury caused by the negligent act or wrongful act or omission of an employee of the Government while acting within the scope of his or her employment under circumstances where the United States if a private person would be liable to the claimant in accordance with the law of the place where the act or omission occurred. The Court also has supplemental jurisdiction pursuant to 28 U.S.C sec 1367 over any non Federal Tort Claims Act claims related to the primary suit against the USA.

16. Plaintiffs have complied with the jurisdictional prerequisite to bringing suit against the USA, pursuant 28 U.S.C. sec 1346 (b), 28 U.S.C sec 2401 (b) and 28 U.S.C. sec 2675 with the timely filing of their administrative tort claim. To that end on May 9, 2013 an administrative claim was filed on behalf of plaintiffs, Summer Moore and Gabrielle Moore with the Department of Health and Human Services (hereinafter DHHS). On

September 17, 2013 DHHS denied the claim. Consequently plaintiffs have exhausted their administrative remedies, which is a condition precedent to the filing of this action.

17. Venue is conferred pursuant to 28 U.S.C. sec 1402 (b) and is appropriate in the United States District Court for the District of New Jersey in as much as plaintiffs are residents of the State of New Jersey and a "substantial part of the events or omissions giving rise to the claim" occurred in New Jersey. Venue is further conferred in the Camden vicinage because the plaintiff's county of residence and the location of the events at issue occurred in Cumberland County which is included in the Camden vicinage.

FIRST COUNT

18. At all times material hereto, the USA funded, owned, operated, managed and/or controlled the healthcare delivered by and through their actual and/or ostensible agents, principals, servants, contractors, and representatives which include federal employees and non-federal employees working on joint ventures or cooperative agreements in support of or on behalf of the USA among which were, CompleteCare, Nurse Doria, Nurse Milligan and those other health care providers whose names and chart entries appear in the USA's medical records, and who were acting within the course and scope of their business and/or employment relationship with the USA in providing care and treatment to plaintiff Gabrielle Moore.

19. At all times material hereto, the USA acted by and through their respective actual and/or ostensible agents, principals, servants, contractors, and representatives which include federal employees and non-federal employees working on joint ventures or cooperative agreements in support of or on behalf of the USA among which were, CompleteCare, Nurse Doria, Nurse Milligan and those other health care providers whose names and chart entries appear in the USA's medical records, and who were

acting within the course and scope of their business and/or employment relationship with the USA .

20. In light of the above-described business and/or employment relationships, the USA is bound by and vicariously liable for the actions and omissions of their actual and/or ostensible agents, principals, servants, contractors, and/or representatives which include federal employees and non-federal employees working on joint ventures or cooperative agreements in support of or on behalf of the USA among which were, CompleteCare, Nurse Doria, Nurse Milligan and those other health care providers whose names and chart entries appear in the USA's medical records and/or whose identities are known to the USA.

21. At all times material hereto the USA funded, owned, operated, managed and controlled CompleteCare, a facility authorized and licensed to provide obstetrical and other medical services to the public in general and to Gabrielle Moore in particular and held out CompleteCare as a health care facility competent to provide these services.

22. At all times material hereto, plaintiff, Ms. Moore, looked to the USA and/or its actual and/or ostensible agents, principals, servants, contractors, and representatives which include federal employees and non-federal employees working on joint ventures or cooperative agreements in support of or on behalf of the USA among which were, CompleteCare, Nurse Doria, Nurse Milligan and those other health care providers whose names and chart entries appear in the USA's medical records, to provide medical care and treatment to her in a reasonable, prompt, proper, adequate and appropriate manner.

23. The USA's respective actual and/or ostensible agents, principals, servants, contractors, and representatives which include federal employees and non-

federal employees working on joint ventures or cooperative agreements in support of or on behalf of the USA among which were, CompleteCare, Nurse Doria, Nurse Milligan and those other health care providers whose names and chart entries appear in the USA's medical records while acting within the scope of their employment were negligent in their care and treatment of plaintiff and/or deviated from applicable standards of care in failing to timely offer plaintiff, Ms. Moore, proper prenatal screening for Down Syndrome and in such ways as discovery may reveal.

24. The USA acting by an through their respective actual and/or ostensible agents, principals, servants, contractors, and representatives which include federal employees and non-federal employees working on joint ventures or cooperative agreements in support of or on behalf of the USA among which were CompleteCare, Nurse Doria, Nurse Milligan and those other health care providers whose names and chart entries appear in the USA's medical records deprived plaintiff of information necessary to make a fully informed decision as to whether or not to continue a pregnancy carrying a fetus with Down Syndrome, an option that would have been exercised had she been fully informed in a timely manner.

25. The negligence of the USA acting by an through their respective actual and/or ostensible agents, principals, servants, contractors, and representatives which include federal employees and non-federal employees working on joint ventures or cooperative agreements in support of or on behalf of the USA among which were CompleteCare, Nurse Doria, Nurse Milligan and those other health care providers whose names and chart entries appear in the USA's medical records significantly increased the risk (which thereafter occurred) that plaintiff would be deprived of information necessary in order to make a fully informed decision as to whether or not to

continue a pregnancy carrying a fetus affected with Down Syndrome, an option that would have been exercised had she been fully informed in a timely manner.

26. As a result of the carelessness and negligence of the USA, and/or the failure of their actual and/or ostensible agents, principals, servants, contractors, and representatives which include federal employees and non-federal employees working on joint ventures or cooperative agreements in support of or on behalf of the USA among which were, CompleteCare, Nurse Doria, Nurse Milligan and those other health care providers whose names and chart entries appear in the USA's medical records whose identities are known to the USA to adhere to minimum standards of medical care plaintiff, Gabrielle Moore, has in the past and will in the future be caused to incur extraordinary expenses to care for the minor plaintiff throughout the minor's lifetime.

27. As a result of The carelessness and negligence of the USA, and/or the failure of their actual or ostensible agents, principals, servants, contractors, and representatives which include federal employees and non-federal employees working on joint ventures or cooperative agreements in support of or on behalf of the USA among which were, CompleteCare, Nurse Doria, Nurse Milligan and those other health care providers whose names and chart entries appear in the USA's medical records whose identities are known to the USA to adhere to minimum standards of medical care plaintiff, Gabrielle Moore has in the past and will in the future suffer emotional distress with respect to parenting a child with severe birth defects.

WHEREFORE, plaintiffs demand judgment against defendant U.S.A for damages, losses and expenses pursuant to the Supreme Court case of Procanik by Procanik v. Cillo, 97 NJ 339 (1984), together with interest and costs of suit.

SECOND COUNT

28. Plaintiffs allege that an insufficient time has passed within which to determine the true identity of any individuals or entities who may have been responsible for formulating and/or implementing policies and procedures concerning the offering of prenatal screening for Down Syndrome during the first trimester at CompleteCare or that alternatively that said information will not become available to plaintiff until litigation is commenced.

29. For the purposes of the within Complaint, defendants John Doe Medical Directors A-Z (multiple fictitious persons) are any medical directors, supervisors, administrators or other personnel responsible for formulating and/or implementing policies and procedures concerning the offering of prenatal screening for Down Syndrome during the first trimester at CompleteCare.

30. Defendant John Doe Medical Director A-Z (multiple fictitious persons) deviated from applicable standards of care in such ways as discovery may reveal and was otherwise negligent in failing to formulate and/or implement appropriate policies and procedures concerning the offering of prenatal screening for Down Syndrome during the first trimester at CompleteCare or in such other ways as discovery may reveal.

31. As a result of the negligence and aforesaid deviations from the applicable standards of care by defendant John Doe Medical Director A-Z (multiple fictitious persons), plaintiff was deprived of information necessary in order to make a fully informed decision as to whether or not to continue a pregnancy carrying a fetus with Down Syndrome, an option that would have been exercised had she been fully informed in a timely manner.

32. Alternatively, the negligence and aforesaid deviations from the applicable standards of care by defendant John Doe Medical Director A-Z (multiple fictitious persons) significantly increased the risk (which thereafter occurred) that plaintiff would be deprived of information necessary in order to make a fully informed decision as to whether or not to continue a pregnancy carrying a fetus affected with Down Syndrome, an option that would have been exercised had she been fully informed in a timely manner.

33. At all times relevant hereto, defendant John Doe Medical Director A–Z (multiple fictitious persons) acted as an actual or apparent agent, servant and/or employee of defendant USA and/or John Doe Employer A-Z (multiple fictitious entities).

34. Under the doctrines of respondeat superior and/or apparent authority, defendant USA and/or John Doe Employer A-Z (multiple fictitious entities) is responsible for the negligent acts committed by defendant John Doe Medical Director A-Z (multiple fictitious persons) and the damages suffered by plaintiffs as a result thereof.

35. The minor plaintiff's disabilities have and will result in extraordinary expenses throughout the minor plaintiff's lifetime.

36. Plaintiff Gabrielle Moore, respectively the mother of the minor plaintiff, has in the past and will in the future suffer emotional distress with respect to parenting a child with a severe genetic disorder.

WHEREFORE, plaintiffs demand judgment against defendant USA; John Doe Medical Director A-Z (multiple fictitious persons); and John Doe Employers A-Z (multiple fictitious entities) for damages, losses and expenses pursuant to the Supreme Court case of Procanik by Procanik v. Cillo, 97 NJ 339 (1984), together with interest and costs of suit.

THIRD COUNT

37. Plaintiffs repeat each and every allegation of the preceding Counts and make them paragraph one of this Count.

38. Plaintiffs allege that an insufficient time has passed within which to determine the true identity of any other individuals or entities who may have negligently contributed to their being deprived of information concerning the true status of the fetus which plaintiff Gabrielle Moore was carrying, or alternatively, that said information will not become available to plaintiff until litigation is commenced. For the purposes of the within Complaint, said individuals and business entities have been designated as John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities).

39. Defendants John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities) are any medical care providers treated plaintiff during her pregnancy.

40. Defendant John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities) deviated from applicable standards of care in failing to provide information to plaintiff which was material to her ability to make informed choices regarding the course of her pregnancy and/or in such other ways as discovery may reveal.

41. As a result of the negligence and aforesaid deviations from the applicable standards of care by defendants John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities), plaintiff was deprived of information necessary in order to make a fully informed decision as to whether or not to continue a pregnancy carrying a fetus affected with Down Syndrome, an option that would have been exercised had she been fully informed in a timely manner.

42. Alternatively, the negligence and aforesaid deviations from the applicable standards of care by defendants John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities) significantly increased the risk (which thereafter occurred) that plaintiff would be deprived of information necessary in order to make a fully informed decision as to whether or not to continue a pregnancy carrying a fetus affected with Down Syndrome, an option that would have been exercised had she been fully informed in a timely manner.

43. At all times relevant hereto, defendant John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities) acted as an agent, servant and/or employee of defendant USA and/or John Doe Employer A-Z (multiple fictitious entities).

44. Under the doctrines of respondeat superior and/or apparent authority, defendant USA and/or John Doe Employer A-Z (multiple fictitious entities) is responsible for the negligent acts committed by defendant John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities) and the damages suffered by plaintiffs as a result thereof.

45. The minor plaintiff's disabilities have and will result in extraordinary expenses throughout the minor plaintiff's lifetime.

46 Plaintiff, Gabrielle Moore, respectively the mother of the minor plaintiff, has in the past and will in the future suffer emotional distress with respect to parenting a child with a severe genetic disorder.

47. Plaintiffs, pursuant to the Rules of Court for the State of New Jersey, reserve the right to amend the within Complaint to add additional defendants when and if the identity of said individuals or business entities becomes known.

WHEREFORE, plaintiffs demand judgment against defendants John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities); USA and John Doe Employers A-Z (multiple fictitious entities) for damages, losses and expenses pursuant to the Supreme Court case of Procanik by Procanik v. Cillo, 97 NJ 339 (1984), together with interest and costs of suit.

FOURTH COUNT

48. Plaintiffs repeat each and every allegation of the preceding Counts and make them paragraph one of this Count.

WHEREFORE, plaintiffs demand judgment against defendants USA; John Doe Medical Director A-Z (multiple fictitious persons); John Doe Employers A-Z (multiple fictitious entities) and John/Jane Doe Obstetrical Care Providers A-Z (multiple fictitious persons and/or entities), jointly, severally & in the alternative for damages, losses and expenses pursuant to the Supreme Court case of Procanik by Procanik v. Cillo, 97 NJ 339 (1984), together with interest and costs of suit

WEISS & PAARZ, P.C.
Attorneys for Plaintiffs

BY: s/Pamela Brown-Jones____________
PAMELA BROWN-JONES, ESQ.

Dated: 9/25/13